

VERMONT TOBACCO EVALUATION AND REVIEW BOARD
BOARD MEETING

Wednesday, February 11, 2009 3:00 p.m. – 5:00 p.m.

The Pavilion Building, 109 State Street, Montpelier
Governor's 4th Floor Conference Room

Present: Edna Fairbanks-Williams, Kate Larose, Christy Mihaly, Amy Brewer, Greg MacDonald, Teresa Leyro, Chris Finley, Ted Marcy, Marcia Lawrence.
Members of the Public Present: Tina Zuk, Kate Coburn, Debbie Haskins, Rebecca Ryan, Yvonne Zietlow.

MINUTES

Minutes appear in italicized typeface

Public Comment

(10 min)

- *Tina Zuk commented on the status of S7, the bill that would completely eliminate smoking in the workplace. She expects a vote on Friday. There had been issues with a vehicle provision and that language may be taken out of the bill soon.*
- *Deb Haskins from the Association of Student Assistance Professionals (ASAP) spoke about the wide array of services that SAPs provide.*
- *Kate Coburn spoke about the availability of NRT. She stated that hospital based cessation programs and the QuitNet have seen an increase in NRT provision. Kate thought that "we will no longer have NRT in April." January was the second largest month ever. There has been a 28% increase in clients. Some relapse and seek services again. Kate stated that she is seeking guidance from VDH and others to minimize the amount of NRT distributed while staying within "clinical guidelines." Christy asked about the reasons for the increase. Kate cited media and other factors. Ted suggested this be a topic of discussion within the cessation committee and the members generally agreed.*

Approval of Minutes

(5 min)

Edna pointed out a missing page in the January meeting minutes in the packet. Stephen will assure the final copy is complete. EDNA: MOTION TO ACCEPT MINUTES WITH CORRECTION AND RECIRCULATION. GREG: SECONDED. ALL IN FAVOR. MOTION PASSED.

Legislative Updates

(10 min)

Christy discussed the following bills and noted that S7 and H118 are two versions of the same bill:

- H.0046 An act relating to prohibiting lighted tobacco products outside state, county, and municipal buildings*
- H.0111 An act relating to children's access to tobacco products*
- H.0118 An act to protect the health of employees by prohibiting the use of lighted tobacco products in the workplace*

H.0167 An act relating to compliance testing of tobacco licensees

S.0007 An act to prohibit the use of lighted tobacco products in the workplace

Does the Board want to develop any positions on any of the proposed legislation (that it hasn't already)?

S7: Patsy French sponsored a bill on the house side as well (H118).

H111: This is the bill that the Board has had the greatest involvement in; it is sponsored by Rep. Patsy French. There might be a revision to change the responsibility of further studying alternatives to fines from DLC to the VTERB. Rep. Patsy French will discuss the bill in the H&HS Committee this Thursday.

H46: Sponsored by Tony Klein, this would extend the clean indoor air act to 50 feet from the building. This will also be discussed at the H&HS committee this Thursday.

Edna said she gets a face full of smoke when people smoke just outside; she supports the bill. **EDNA MOTIONED THAT THE BOARD SUPPORT THE HOUSE BILL 46; GREG SECONDED. FURTHER DISCUSSION:**

Marcia asked about the definition of a "municipal building." Christy described the definition as seen in the bill language. The bill does not propose to change enforcement mechanisms. There is a separate ban on public school grounds. Current provision is for BGS policy for state buildings to comply with federal regulations; again this is just a policy. Chris Finley described the VDH perspective: the concern is how to enforce it; it could be a challenge. However VDH would support the bill. Greg would support it as well because legislation has been very effective. Amy supports the bill as well, however she is concerned with any backlash from smokers. The Board asked to hear from members of the Coalition for a Tobacco Free Vermont. The Coalition supports the bill, but will not champion it due to other priorities.

MOTION TO SUPPORT THE HOUSE BILL 46. ALL IN FAVOR. NONE OPPOSED. NO ABSTENTIONS. MOTION PASSED.

H167: This bill is sponsored by Rep. Donovan and would increase compliance testing by 5% when monthly compliance rates fall below 90%.

In the past the Board had debated issue about compliance testing and RTI recommended penalties be increased since this was more cost effective than increasing compliance checks. Christy mentioned that her opinion is that resources may not be available to do this, given current economic times: it is a resource issue.

IT WAS GENERALLY AGREED THAT, IF ASKED TO TESTIFY, THE BOARD WILL REITERATE PREVIOUS BOARD COMMENTS ABOUT THE ISSUE.

Up-and-Coming: Tobacco tax provisions for other tobacco products are being discussed, although there is no formal, 'numbered' bill yet. The AG's office worked with the Tax department as it became clear that some products needed to be taxed differently in an effort for an equivalent rate compared to lighted products. At least one tobacco lobbyist voiced an opinion on this issue.

Response to Governor's FY2010 Budget Recommendations (60 min)

Ted presented potential responses to the Governor's FY2010 budget recommendations, which seeks to cut the program by about \$1.9 million. None of the potential responses would be mutually exclusive. Ted reviewed the Governor's recommendations as we understand them. Affected would be line items for Community Coalitions, Media, Cessation, and Provider

Education. It is likely that the Legislature will set the total budget (e.g.: \$1.9 million); VDH and the Board would work together to recommend specific line item amounts.

Chris F. testified recently to House Appropriations; she showed the TCP funding over time. She confirmed the statements that described the budgeting process (above).

Potential Response #1: The Board could make a case for sustained funding. Ted stated that the Board has preemptively opposed the cuts and cited the language already developed in its Annual Report Executive Summary.

Potential Response #2: Another possible response is to recognize the potential cuts and discuss recommendations for the specific line item allocations. VTERB and VDH would have an ongoing discussion on how to allocate funds, once we have a final big number.

These two items (#1 and #2) would be difficult to do at the same time, at least in a public forum. Stephen will check on specifics of language of legislation that describe legislator responsibility to provide detailed and specific line item amounts or a larger allocation amount.

Potential Response #3: A third possibility is to discuss whether, in lean economic times, it makes sense to fund program components, (ones that would be difficult to stop then start again), through the trust fund.

Discussion about the three potential responses followed:

Edna asked about 'base fund' vs. interest regarding the trust fund. Christy provided a trust fund background regarding the litigation settlement fund (for programs) and the trust fund (for use as a perpetual fund not reliant on tobacco taxes). About \$6 million has been taken out in 2006, 2007, and 2008 to litigate for new dollars (recovery). It will be a while before the fund receives the money back. Several million were removed from the fund recently for budget gaps; this will not be paid back. Ted discussed the potential that the Administration and/or the Legislature would "double dip"; trust fund raids and programmatic cuts would not be fair. There will likely be no 'prevention' dollars in the federal stimulus package. Greg agrees that the trust fund keeps being pilfered from and he expects the fund to keep getting hit. He would consider using funds from the trust fund for TCP purposes. Greg and Ted agreed that "We should use it before someone else does." The legislature would have to authorize that type of proposal after a Board recommendation. Ted said there is a danger that we would never reach a level funding after we dip into the trust fund.

Greg sees all three statements as things to support: It is important to keep the programs going. Chris F. discussed the integration of services in terms of broader programs. Amy said that the funding structure does not allow for integration, although in theory it sounds good.

Christy suggested making a case for sustained funding and looking to downsize in reasonable ways. Christy suggested NOT using trust fund dollars: the AG's office and Christy feel it is not a good choice at least in the long term, although she and the AG would not protest taking from the fund to shore up current programs.

Ted said that this is a Board level decision and we have begun the discussion. We need to take into account the conclusions and recommendations garnered during the site visit when making these important decisions. Ted presented the site visit summary and the discussion of a Response to the proposed budget cuts continued afterward (see continued discussion and action steps below).

Evaluation Committee Updates

(30 min)

- Site Visit Summary of Conclusions and Recommendations

The purpose of the presentation is to try to summarize the comments of Matthew and the subsequent discussion at the December site visit for those who were not at the site visit, as well as to organize the thinking of those of us who were. It includes some comments from an email from Matthew in response our request for him to summarize his thoughts on redistributing funds among the major program components. There were a number of suggestions made by the evaluation committee members that Ted has incorporated into the presentation and therefore it is a distillation of a number of sources. Teresa thought it wise to think about things in terms of percentages rather than dollar amounts.

Ted presented a summary of major topics: VT Results (Youth Prevalence, Adult Prevalence, Secondhand smoke); A Comparison to Other States; Overarching Recommendations; Community and State Interventions; School-Based Interventions; Youth Access and Enforcement; Mass Media; Provider Education; Cessation Services; Disparate Populations; and CDC vs. RTI Recommendations.

Greg asked about maintenance of youth prevalence, while focusing on adults. Ted cited Florida, but we may not have the answer. Kate and others cited other states that have been successful. Chris F. spoke about the overlapping prevalence rates for disparate groups such as young, pregnant women of low SES. Prevalence for pregnant women is being looked at by a Vermont Senator in response to testimony provided in the H&W Committee last week. Another site visit will happen at the end of April. At that time funding levels will be very clear.

The Board reflected on Ted's presentation and turned once again to a discussion about how to respond to the Governor's FY2010 Budget Recommendations.

Continued Discussion and Action Steps:

Greg questioned the timeframe for the 50% cut: is it definite? Chris F. is not optimistic about gaining the other half through the legislative process. Ted asked to please give thought to these issues and the April site visit will be an important time to discuss funding levels.

Can the Board get a more detailed budget for the VDH items? We have various budget components available to the VTERB. The annual report has some level of detail. Christy reported that funding decisions in the legislature will be made quickly, and advised the Board to take some action now. Another option would be to examine cuts to other areas, but this may not be a good idea because they could take that too.

GREG MOTIONED TO SUPPORT THE CHAIR AND VICE CHAIR TO WRITE A ONE-PAGE MEMORANDUM TO THE HOUSE AND SENATE APPROPRIATIONS COMMITTEES TO REITERATE THE CASE FOR SUSTAINED FUNDING. CHRISTY SECONDED THE MOTION. FURTHER DISCUSSION: Can we quantify health care costs in the future as a result of cuts? The Coalition has put together a related document that achieves this. Although it might be difficult, it is possible to include such material in the memorandum. The memorandum would also specifically request that the VTERB provide testimony to the two committees. **ALL IN FAVOR, NONE OPPOSED, CHRIS FINLEY (REPRESENTING VDH) ABSTAINS. MOTION PASSED.**

- **2010-2011 Workplan Objectives**

The Department of Health and Tobacco Evaluation and Review Board is responsible each year to develop a 2 year work plan by June 1. We have many sources of information to

review are have asked for a high level of input to develop draft work plan objectives for FY 2010 and FY2011. The first workgroup meeting about this process was held last week. General tasks for this project, spanning the next several months include: reviewing current objectives, adding new objectives, gathering feedback and input from stakeholders/partners, asking the Board's sub-committees to revise objectives, and seeking public comment about the draft objectives during the site visit in April.

Other Business

(5 min)

No other business discussed.

Meeting Adjourned at 4:50 p.m.

Minutes Submitted by: Stephen Morabito

Minutes Approved by: Dr. Ted Marcy, Vice Chair and facilitator of the meeting